BILL NO. G-92-03-16 (AS AMENDED)

GENERAL ORDINANCE NO G-20-92

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AMENDING CHAPTER 33 OF THE MUNICIPAL CODE OF THE CITY OF FORT WAYNE, INDIANA

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Section 33-17(b)(2)e. is hereby repealed.

SECTION 2. Section 33-17(b)(3) is hereby repealed.

SECTION 3. Section 33-35 is created and amended to read as follows:

33-35 Fences and Walls

(a) Purpose. The purpose of this section is to provide standards for the placement and erection of fences, walls, and hedges for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Permits.

(1) No person shall erect a fence or wall without obtaining an Improvement Location Permit from the Division of Community and Economic Development, except that no permit shall be required for a retaining wall, hedge, or other planting or for any fence or wall in connection with any permitted agricultural use.

(2) No permit shall be required for corner boundary markers that are no greater than 3 feet in height and extend no more than 6 feet from the corner in two directions along the property line.

(3) All applications for fence or wall permits shall be accompanied by an overall plot plan including the legal description, shape, and dimensions of the lot, together with the location, material, and height of the proposed fence(s) or wall(s).

(c) Materials.

(1) General. Unless otherwise required by the provisions and procedures of subsection (d), all fences shall be constructed of commonly used materials such as woven or welded wire mesh ("chain link"), masonry, wrought iron, and wood. Such materials as corrugated or

sheet metal, chicken wire, or any scrap or other similar offensive material shall not be permitted.

(2) **Residential Districts.** In residential districts, no fence or wall may be designed to cause pain or injury to person or animal, including the use of spikes, broken glass, barbs, nails, or electric charge.

(3) **Maintenance.** Fences and walls shall be constructed in a sound and sturdy manner and maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(4) **Enforcement.** It shall be the duty of the Division of Community & Economic Development to enforce the provisions of this Chapter in the manner and with the powers provided by any and all provisions of this Code, and as provided in the laws of the State of Indiana. The Division of Community & Economic Development shall have the right of entry in order to inspect all fences, walls, retaining walls, and hedges for compliance with the provisions of this Chapter.

(d) Standards.

(1) A fence, wall, retaining wall, or hedge not exceeding seven (7) feet in height may be located in any required rear or side yard, but may not be located in any required front yard.

(2) A hedge, not exceeding 3 feet in height above the grade of the adjacent sidewalk or ground, or retaining wall may be located in the required front yard with no minimum setback.

(3) Notwithstanding paragraph (d) (1) above, A fence or wall not exceeding seven (7) feet in height may be located as close, but no closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure.

(4) **Visibility.** Not withstanding any other provision of this section, no fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in such a manner as materially to impede vision between a height of three (3) and eight (8) feet above the centerline grades of the intersecting streets.

(5) **Screening.** Where a fence or other screening is required to comply with the provisions of the parking lot improvement ordinance, the provisions of that ordinance shall supercede this section.

(6) Variances. Appeals to the Board of Zoning Appeals for a variance of any requirement of this section must show a practical difficulty in meeting those requirements.

(e) Definitions.

(1) **Fence or Wall:** A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, protection, enclosure, partition, screening, or privacy.

(2) **Retaining Wall:** Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being substantially equal in height to the height of the wall.

(3) **Open Fence:** A fence which is less than 85% opaque when viewed perpendicularly to its vertical surface.

(4) **Solid Fence:** A fence which is at least 85% opaque when viewed perpendicularly to its vertical surface.

(5) **Privacy Fence:** A solid fence erected or constructed to prevent views across the fence line.

(6) **Decorative Fence:** An open fence erected only for the purpose of partitioning or enclosing property. Decorative fences include, but are not limited to, split-rail, picket, and wrought iron fences.

(7) **Security Fence:** A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

(8) **Hedge:** A linear arrangement of plants grown closely together to create the effect of a solid, continuous wall which divides one space from another.

SECTION 4. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and legal publication thereof.

Cletus R Edmonds
Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, CITY ATTORNEY

COMMUNITY & ECONOMIC DEVELOPMENT

MEMORANDUM

TO: City Council Members

FROM: Greg Purcell, Director, Community and Economic Development

DATE: April 20, 1992

SUBJECT: Amendment to Proposed Amendment to the Fort Wayne Zoning Ordinance Regulating Fences

Background

The Board of Zoning Appeals asked the staff to propose options giving it more flexibility while still maintaining control of potential front yard fences. Staff prepared a document providing definitions and procedures for the location of said fences. This proposal would have utilized the Special Use procedure to allow for BZA review and approval of fences in the front yards. Upon review by the City Council, an amendment to the proposed zoning ordinance amendment was introduced.

Proposal

The City Council requested an amendment would accomplish three objectives. The first is that it would eliminate the Special Use procedure incorporated in the original amendment. This will require any requests for fences in the front yard to satisfy the requirements of a variance by proving a hardship or a practical difficulty unique to the subject property.

The second objective of the amendment would allow corner markers that are not greater than three (3) feet in height and extending no more than six (6) feet from the corner in two directions along the property lines, without a permit. This would allow property owners to address the problem of bicycles cutting the corners of lawns.

The third objective would further clarify the notion of "front yards" directly relating fences to the location of the primary structure on the property. Fences would not be allowed to be closer to the public right-of-way than the leading edge of the primary structure.

Recommendation

While we generally preferred the original proposal approved by the Plan Commission, we believe that the amended version of the proposed zoning ordinance amendment regulating fences will give guidance to the Board of Zoning Appeals and will enhance neighborhood character. The additions and improvements to the ordinance language itself will provide for a more efficient administration of stated regulations.

Please note that an amendment by Council must receive approval by the Plan Commission before going to the Mayor for approval. Should the Plan Commission not concur with the amendment, the Ordinance would come back to the City Council.

We are including a copy of the News-Sentinel editorial on this topic, simply for your information. Finally, I.C. 36-7-4-607(e)(4) requires Council to send the amendment to the Plan Commission with, ". . . a written statement of the reasons for the . . . amendment".

GP/SJR/GB

Attachments

The News-Sentinel

A Knight-Ridder newspaper

Editorials

Joseph A. Weiler Executive Editor
Richard Battin Managing Editor
Leo Morris Editorial Page Editor

Whose yard is it?

YOUR HOME is your castle. But forget the front yard. That belongs to the state.

Or, rather, to put it in modern, sensitive terms: Your front yard helps contribute to the "aesthetics" of a neighborhood, which means everybody has an interest in it, which means everybody in the neighborhood "owns" it. But of course if "everybody" owns it, nobody really does, and it takes the force of law to make that stick.

Which means, no matter what they tell you, that you don't really own your front yard. The state does.

Fort Wayne has been into yard control since the 1950s — most front-yard fences have been prohibited since then. The Helmke administration this week put forth a modest proposal to return some control to home owners. Fences up to three feet high would be approved, if a majority of neighbors didn't object. The proposal has been put on hold because some City Council members object.

Why? There are reasons to question some fences. Tall ones on corners can block drivers' views and be a safety hazard. Too many privacy fences in the middle of a block could really make a street ugly. But 3-foot-high fences? Only with neighborhood approval?

Come on, council. Show a little respect for private property.

BILL NO. G-~~91-~~ 92-03-16

GENERAL ORDINANCE NO -_____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AMENDING CHAPTER 33 OF THE MUNICIPAL CODE OF THE CITY OF FORT WAYNE, INDIANA

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Section 33-17(b)(2)e. is hereby repealed.

SECTION 2. Section 33-17(b)(3) is hereby repealed.

SECTION 3. Section 33-13 is amended to add the following paragraph 33-13(n):

In R-1, R-2, R-3, RA, RB, B1, B2, B3, B4, M1, and M2 Districts, the Board may approve decorative fences as provided for and defined in Section 33-35. The Board may condition its approval on the type of materials, setback, height, opaqueness, or any other quality or characteristic of the proposed fence in order to meet the purposes of this section and section 33-35.

SECTION 4. Section 33-35 is created and amended to read as follows:

(1) 33-35 Fences and Walls

(a) Purpose. The purpose of this section is to provide standards for the placement and erection of fences, walls, and hedges for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Permits.

(1) No person shall erect a fence or wall without obtaining an Improvement Location Permit from the Division of Community and Economic Development, except that no permit shall be required for a retaining wall, hedge, or other planting or for any fence or wall in connection with any permitted agricultural use.

(2) All applications for fence or wall permits shall be accompanied by an overall plot plan including the legal description, shape, and dimensions of the lot, together with the location, material, and height of the proposed fence(s) or wall(s).

(c) Materials.

(1) **General.** Unless otherwise required by the provisions and procedures of subsection (d),

all fences shall be constructed of commonly used materials such as woven or welded wire mesh ("chain link"), masonry, wrought iron, and wood. Such materials as corrugated or sheet metal, chicken wire, or any scrap or other similar offensive material shall not be permitted.

(2) **Residential Districts.** In residential districts, no fence or wall may be designed to cause pain or injury to person or animal, including the use of spikes, broken glass, barbs, nails, or electric charge.

(3) **Maintenance.** Fences and walls shall be constructed in a sound and sturdy manner and maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(4) **Enforcement.** It shall be the duty of the Division of Community & Economic Development to enforce the provisions of this Chapter in the manner and with the powers provided by any and all provisions of this Code, and as provided in the laws of the State of Indiana. The Division of Community & Economic Development shall have the right of entry in order to inspect all fences, walls, retaining walls, and hedges for compliance with the provisions of this Chapter.

(d) Standards.

(1) **All Zoning Districts:** A fence, wall, retaining wall, or hedge not exceeding seven (7) feet in height may be located in any required yard, except as regulated by other sections of this ordinance.

(2) **Residential Zoning Districts:**

a. A hedge, not exceeding 3 feet in height above the grade of the adjacent sidewalk or ground, or retaining wall may be located in the required front yard with no minimum setback.

b. A fence or wall not exceeding seven (7) feet in height may be located in the required front yard so long as said fence or wall is not closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure.

c. Decorative fences, as defined below, may be located in the required front yard only on approval of a Special Use by the Board of Zoning Appeals (see Section 33-13(n)). The Board may grant a Special Use only if:

i. the decorative fence is no more than 36 inches in height above the grade of the adjacent sidewalk or ground; and

ii. is not constructed of woven or welded wire mesh ("chain link"), or other prohibited materials (see section (C)(1)); and

iii. the applicant for such a fence, upon application to the BZA, submitted signatures of 80% of the owners of property within 200 feet of applicant's property, measured along the centerline of the street in either direction and on both sides of the street, stating that they have no objection to applicant's request.

(3) **Visibility.** Not withstanding any other provision of this section, no fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in such a manner as materially to impede vision between a height of three (3) and eight (8) feet above the centerline grades of the intersecting streets.

(4) **Variances.** Appeals to the Board of Zoning Appeals for a variance of any requirement of this section, other than under (D)(2)(c), must show a practical difficulty in meeting those requirements.

(e) Definitions.

(1) **Fence or Wall:** A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, protection, enclosure, partition, screening, or privacy.

(2) **Retaining Wall:** Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being substantially equal in height to the height of the wall.

(3) **Open Fence:** A fence which is less than 85% opaque when viewed perpendicularly to its vertical surface.

(4) **Solid Fence:** A fence which is at least 85% opaque when viewed perpendicularly to its vertical surface.

(5) **Privacy Fence:** A solid fence erected or constructed to prevent views across the fence line.

(6) **Decorative Fence:** An open fence erected only for the purpose of partitioning or enclosing property. Decorative fences include, but are not limited to, split-rail, picket, and wrought iron fences.

(7) **Security Fence:** A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

(8) **Hedge:** A linear arrangement of plants grown closely together to create the effect of a solid, continuous wall which divides one

space from another.

SECTION 5. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.

SECTION 6. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

C R Edmond

Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay

J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Edmonds, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on Tuesday, the 28th, day of April, 1992, at 7:00 o'clock P.M., E.S.T.

DATED: 3-10-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds, ~~seconded by~~ _____, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8			1
BRADBURY	✓			
EDMONDS	✓			
GiaQUINTA				✓
HENRY	✓			
LONG	✓			
LUNSEY	✓			
RAVINE	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 4-28-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (GENERAL) (~~SPECIAL~~) (~~ZONING~~) ORDINANCE ~~RESOLUTION~~ NO. G-20-92 on the 28th day of April, 1992

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Thomas E. Terry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of June, 1992, at the hour of 11:45 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 9th day of June, 1992, at the hour of 11:20 o'clock A M., E.S.T.

PAUL HELMKE, MAYOR

THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

June 10, 1992

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the dates of June 13 & June 20, 1992, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-92-03-16 (as amended)
General Ordinance No. G-20-92
Fence Ordinance

Please send us 3 copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

LEGAL NOTICE

Notice is hereby given that on the 28th day of April, 1992, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-92-03-16 (as amended) General Ordinance No. G-20-92 to-wit:

BILL NO. G-92-03-16 (AS AMENDED)

GENERAL ORDINANCE NO G-20-92

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(b) Permits.

(1) No person shall erect a fence or wall without obtaining an Improvement Location Permit from the Division of Community and Economic Development, except that no permit shall be required for a retaining wall, hedge, or other planting or for any fence or wall in connection with any permitted agricultural use.

(2) No permit shall be required for corner boundary markers that are no greater than 3 feet in height and extend no more than 6 feet from the corner in two directions along the property line.

(3) All applications for fence or wall permits shall be accompanied by an overall plot plan including the legal description, shape, and dimensions of the lot, together with the location, material, and height of the proposed fence(s) or wall(s).

(c) Materials.

(1) **General.** Unless otherwise required by the provisions and procedures of subsection (d), all fences shall be constructed of commonly used materials such as woven or welded wire mesh ("chain link"), masonry, wrought iron, and wood. Such materials as corrugated or

sheet metal, chicken wire, or any scrap or other similar offensive material shall not be permitted.

(2) **Residential Districts.** In residential districts, no fence or wall may be designed to cause pain or injury to person or animal, including the use of spikes, broken glass, barbs, nails, or electric charge.

(3) **Maintenance.** Fences and walls shall be constructed in a sound and sturdy manner and maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(4) **Enforcement.** It shall be the duty of the Division of Community & Economic Development to enforce the provisions of this Chapter in the manner and with the powers provided by any and all provisions of this Code, and as provided in the laws of the State of Indiana. The Division of Community & Economic Development shall have the right of entry in order to inspect all fences, walls, retaining walls, and hedges for compliance with the provisions of this Chapter.

(d) Standards.

(1) A fence, wall, retaining wall, or hedge not exceeding seven (7) feet in height may be located in any required rear or side yard, but may not be located in any required front yard.

(2) A hedge, not exceeding 3 feet in height above the grade of the adjacent sidewalk or ground, or retaining wall may be located in the required front yard with no minimum setback.

(3) Notwithstanding paragraph (d) (1) above, A fence or wall not exceeding seven (7) feet in height may be located as close, but no closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure.

(4) **Visibility.** Not withstanding any other provision of this section, no fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in such a manner as materially to impede vision between a height of three (3) and eight (8) feet above the centerline grades of the intersecting streets.

(5) **Screening.** Where a fence or other screening is required to comply with the provisions of the parking lot improvement ordinance, the provisions of that ordinance shall supercede this section.

(6) Variances. Appeals to the Board of Zoning Appeals for a variance of any requirement of this section must show a practical difficulty in meeting those requirements.

(e) Definitions.

(1) **Fence or Wall:** A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, protection, enclosure, partition, screening, or privacy.

(2) **Retaining Wall:** Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being substantially equal in height to the height of the wall.

(3) **Open Fence:** A fence which is less than 85% opaque when viewed perpendicularly to its vertical surface.

(4) **Solid Fence:** A fence which is at least 85% opaque when viewed perpendicularly to its vertical surface.

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(7) **Security Fence:** A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

(8) **Hedge:** A linear arrangement of plants grown closely together to create the effect of a solid, continuous wall which divides one space from another.

SECTION 4. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and legal publication thereof.

Cletus R Edmonds

Councilmember

Read the third time in full and on motion by Edmonds, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight
Bradbury, Edmonds, GiaQuinta, Henry, Long, Lunsey, Ravine, Schmidt, Talarico
NAYS: None
ABSTAINED: None
ABSENT: One
GiaQuinta

DATED: 4-28-92

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-20-92 on the 28th day of April, 1992

ATTEST: (SEAL)

Sandra E. Kennedy
City Clerk

Thomas C. Henry
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of June, 1992, at the hour of 11:45 o'clock A.M.,E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 9th day of June, 1992, at the hour of 11:20 o'clock A.M.,E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-20-92, passed by the Common Council on the 28th day of April, 19 92, and that said Ordinance was duly signed and approved by the Mayor on the 9th day of June, 19 92, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 9th day of June, 19 92.

SEAL

SANDRA E. KENNEDY, CITY CLERK

FACT SHEET

G-92-03-16
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE Zoning Ordinance Amendment

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address

N/A

Reason for Project

The purpose of the amendment is to provide standards for the placement and erection of fences and walls for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

Discussion (Including relationship to other Council actions)

16 March 1992 - Public Hearing

Steve Ranshaw, Senior Planner, with Community and Economic Development stated that this ordinance was in direct response to cases that have been coming before the Board of Zoning Appeals. He stated that the ordinance does not allow for fences in the front yard. He stated that the Board of Zoning Appeals was being forced to try to hear cases, without any criteria, and determine whether these were going to satisfy the basic criteria for a variance. He stated that it was a very difficult situation. He stated that the Board requested that the staff come up with some possible variation, or at least, some guidance as far as what could be done with fencing in the front yard. He stated that what they have done is set up a procedure now that outlines some quidelines for the Board to hear these cases. He stated that instead of making them straight variances they are now Special Uses and there are guidelines specified in this language that will set out some of the criteria that the Board will hear. He stated that one other thing it does is it helps in defining fences.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	**City Wide** **Other Areas**
Applicants/ Proponents	**Applicant(s)** Land Use Management - C&ED **City Department** **Other**
Opponents	**Groups or Individuals** **Basis of Opposition**
Staff Recommendation	[X] For [ ] Against **Reason Against**
Board or Commission Recommendation	**By** [X] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for conditions
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pass

DETAILS

There was no one else who wished to speak in favor of or in opposition to the proposed amendment.

March 23, 1992 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the eight (8) members present, seven (7) voted in favor of the motion, one (1) did not vote.

Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start **Date** 10 December 1991

Projected Completion or Occupancy **Date** 24 March 1992

Fact Sheet Prepared by **Date** 24 March 1992

Patricia Biancaniello

Reviewed by **Date** 24 MARCH 1992

Reference or Case Number

#49

ORIGINAL

ORIGINAL

DIGEST SHEET

92-03-16

TITLE OF ORDINANCE Zoning Ordinance Amendment (Amended)

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE Current fence regulations specify only one standard for all types of fences, contain an inflexible prohibition of front yard fences, & provide no guidelines for granting variances. The proposed ordinance corrects these deficiencies by: (1) stating the purpose of the ordinance to be, in part, "conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of neighborhood character"; (2) creating standards for materials, height, setback, etc.; (3) stating explicit criteria for granting variances, including the requirement for Board of Zoning Appeals approval of residential front yard fences; and (4) providing definitions.

EFFECT OF PASSAGE Improved review and control of proposed front yard fences; greater compatibility with and enhancement of neighborhood character; easier and more efficient administration of the ordinance.

EFFECT OF NON-PASSAGE Continuation of status quo would deny many residents opportunity to improve property with front yard fences; would maintain inadequate ordinance provisions, leading to difficult administration.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) None

(ASSIGN TO COMMITTEE)

BILL NO. G-92-03-16

REPORT OF THE COMMITTEE ON REGULATIONS

CLETUS R. EDMONDS, CHAIRMAN
JANET G. BRADBURY, VICE CHAIRWOMAN
RAVINE, TALARICO, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM

WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ OF THE COMMON

COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AMENDING CHAPTER 33 OF THE MUNICIPAL CODE OF THE CITY OF FORT WAYNE, INDIANA

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) ~~(RESOLUTION)~~

DO PASS	DO NOT PASS	ABSTAIN	NO REC
C R Edmonds			
J G Bradbury			
Rebecca Ravine			
D Schmidt			

DATED: 4-28-92

Sandra E. Kennedy
City Clerk

May 13, 1992

To the City Plan Commission
8th Floor
City-County Building
Fort Wayne, IN 46802

RE: Bill No. G-92-03-16

Dear Members of the City Plan Commission:

The above ordinance was amended by the Common Council of the City of Fort Wayne, which amendment removed the special use for front yard fences. The reason for the amendment was to prevent the detrimental effect of front yard fences on real estate throughout the City.

This ordinance is being returned for further action by the Plan Commission.

Respectively submitted,

Donald J. Schmidt
Vice President of
Common Council

Notice is hereby given that on the 28th day of April, 1992, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-92-03-16 (as amended) General Ordinance No. G-20-92 to-wit:

BILL NO. G-92-03-16 (AS AMENDED)

GENERAL ORDINANCE NO - G-20-92

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AMENDING CHAPTER 33 OF THE MUNICIPAL CODE OF THE CITY OF FORT WAYNE, INDIANA

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Section 33-17 (b) (2) e. is hereby repealed.

SECTION 2. Section 33-17 (b) (3) is hereby repealed.

SECTION 3. Section 33-35 is created and amended to read as follows:

33-35 Fences and Walls

(a) Purpose. The purpose of this section is to provide standards for the placement and erection of fences, walls, and hedges for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Permits.

(1) No person shall erect a fence or wall without obtaining an Improvement Location Permit from the Division of Community and Economic Development, except that no permit shall be required for a retaining wall, hedge, or other planting or for any fence or wall in connection with any permitted agricultural use.

(2) No permit shall be required for corner boundary markers that are no greater than 3 feet in height and extend no more than 6 feet from the corner in two directions along the property line.

(3) All applications for fence or wall permits shall be accompanied by an overall plot plan including the legal description, shape, and dimensions of the lot, together with the location, material, and height of the proposed fence (s) or wall (s) .

(c) Materials.

(1) General. Unless otherwise required by the provisions and procedures of subsection (d) , all fences shall be constructed of commonly used materials such as woven or welded wire mesh (*p15chain link*p33) , masonry, wrought iron, and wood. Such materials as corrugated or sheet metal, chicken wire, or any scrap or other similar offensive material shall not be permitted.

(2) Residential Districts. In residential districts, no fence or wall may be designed to cause pain or injury to person or animal, including the use of spikes, broken glass, barbs, nails, or electric charge.

(3) Maintenance. Fences and walls shall be constructed in a sound and sturdy manner and maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(4) Enforcement. It shall be the duty of the Division of Community & Economic Development to enforce the provisions of this Chapter in the manner and with the powers provided by any and all provisions of this Code, and as provided in the laws of the State of Indiana. The Division of Community & Economic Development shall have the right of entry in order to inspect all fences, walls, retaining walls, and hedges for compliance with the provisions of this Chapter.

(d) Standards .

(1) A fence, wall, retaining wall, or hedge not exceeding seven (7) feet in height may be located in any required rear or side yard, but may not be located in any required front yard.

(2) A hedge, not exceeding 3 feet in height above the grade of the adjacent sidewalk or ground, or retaining wall may be located in the required front yard with no minimum setback.

(3) Notwithstanding paragraph (d) (1) above, A fence or wall not exceeding seven (7) feet in height may be located as close, but no closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure.

(4) Visibility. Not withstanding any other provision of this section, no fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in such a manner as materially to impede vision between a height of three (3) and eight (8) feet above the centerline grades of the intersecting streets.

(5) Screening. Where a fence or other screening is required to comply with the provisions of the parking lot improvement ordinance, the provisions of that ordinance shall supercede this section.

(6) Variances. Appeals to the Board of Zoning Appeals for a variance of any requirement of this section must show a practical difficulty in meeting those requirements.

(e) Definitions.

(1) Fence or Wall: A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, protection, enclosure, partition, screening, or privacy.

(2) Retaining Wall: Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being substantially equal in height to the height of the wall.

(3) Open Fence: A fence which is less than 85% opaque when viewed perpendicularly to its vertical surface.

(4) Solid Fence: A fence which is at least 85% opaque when viewed perpendicularly to its vertical surface.

(5) Privacy Fence: A solid fence erected or constructed to prevent views across the fence line.

(6) Decorative Fence: An open fence erected only for the purpose of partitioning or enclosing property. Decorative fences include, but are not limited to, split-rail, picket, and wrought iron fences.

(7) Security Fence: A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

(8) Hedge: A linear arrangement of plants grown closely together to create the effect of a solid, continuous wall which divides one space from another.

SECTION 4. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.

SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and legal publication thereof.

Clitus R. Edmonds
Councilmember

Read the third time in full and on motion by Edmonds, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight
Bradbury, Edmonds, GiaQuinta, Henry, Long, Lunsey, Ravine, Schmidt, Talarico
NAYS: None
ABSTAINED: None
ABSENT: One
GiaQuinta

DATED: 4-28-92
Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-20-92 on the 28th day of April, 1992

ATTEST: (SEAL)
Sandra E. Kennedy — Thomas C. Henry
City Clerk — Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of June, 1992, at the hour of 11:45 o'clock A.M.,E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 9th day of June, 1992, at the hour of 11:20 o'clock A.M.,E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-20-92, passed by the Common Council on the 28th day of April, 1992, and that said Ordinance was duly signed and approved by the Mayor on the 9th day of June, 1992, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 9th day of June, 1992.

SEAL

SANDRA E. KENNEDY, CITY CLERK

6–13-20

d of Accounts — General Form No. 99P (Revised 1987)

COUNCIL — To: The News-Sentinel — Dr.

t) — P.O. Box 100

unty, Indiana — Fort Wayne, IN

PUBLISHER'S CLAIM

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type in which the body of the advertisement is set)

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containing rule or tabular work

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r allowing all just credits, and that no part of the

Bonnie McNeal

Clerk

, 19 92 Title:

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned BONNIE McNEAL who, being duly sworn, says that he/she is **Clerk** of the **The News-Sentinel** newspaper of general circulation printed and published in the English language in the (city) (town) of **Fort Wayne, IN** in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time , the dates of publication being as follows:

06/13/92, 06/20/92

Bonnie McNeal

Subscribed and sworn to before me this 20th day of June , 19 92.

Shelley R. LaRue

Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994

Form Prescribed by State Board of Accounts

General Form No. 99P (Revised 1987)

FORT WAYNE COMMON COUNCIL
(Governmental Unit)

ALLEN County, Indiana

To: The News-Sentinel Dr.
P.O. Box 100
Fort Wayne, IN

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set) -- number of equivalent lines _____

Head -- number of lines _____

Body -- number of lines _____

Tail -- number of lines _____

Total number of lines in notice _____

COMPUTATION OF CHARGES

184 lines, 1 columns wide equals 184 equivalent lines
at .495 cents per line $ 91.08

Additional charge for notices containing rule or tabular work (50 percent of above amount) _____

Charge for extra proofs of publication ($1.00 for each proof in excess of two) 1.00

TOTAL AMOUNT OF CLAIM $ 92.08

DATA FOR COMPUTING COST

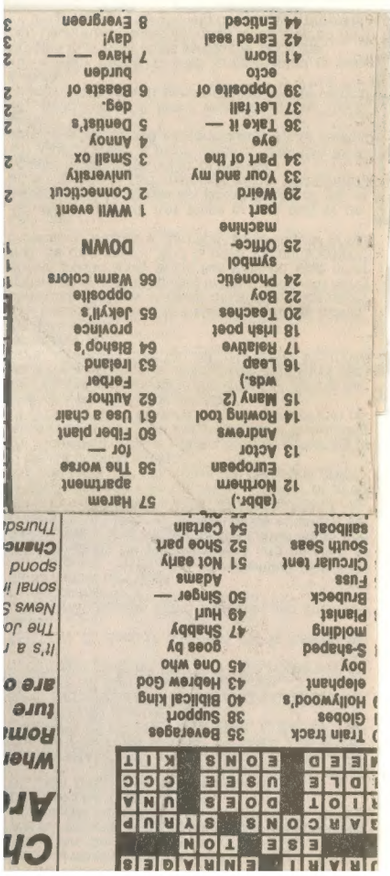
Width of single column 12.5 ems
Number of insertions 2
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Bonnie McNeal

Date: June 20, 19 92 Title: Clerk



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(Governmental Unit)

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Shelley R. LaRue
Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994

extend no more than 6 feet from the corner in two directions along the property line.
(3) All applications for fence or wall permits shall be accompanied by an overall plot plan including the legal description, shape, and dimensions of the lot, together with the location, material, and height of the proposed fence (s) or wall (s).
(c) Materials.
(1) General. Unless otherwise required by the provisions and procedures of subsection (d), all fences shall be constructed of commonly used materials such as woven or welded wire mesh (*p15chain link*p33), masonry, wrought iron, and wood. Such materials as corrugated or sheet metal, chicken wire, or any scrap or other similar offensive material shall not be permitted.
(2) Residential Districts. In residential districts, no fence or wall may be designed to cause pain or injury to person or animal, including the use of spikes, broken glass, barbs, nails, or electric charge.
(3) Maintenance. Fences and walls shall be constructed in a sound and sturdy manner and maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.
(4) Enforcement. It shall be the duty of the Division of Community & Economic Development to enforce the provisions of this Chapter in the manner and with the powers provided by any and all provisions of this Code, and as provided in the laws of the State of Indiana. The Division of Community & Economic Development shall have the right of entry in order to inspect all fences, walls, retaining walls, and hedges for compliance with the provisions of this Chapter.
(d) Standards.
(1) A fence, wall, retaining wall, or hedge not exceeding seven (7) feet in height may be located in any required rear or side yard, but may not be located in any required front yard.
(2) A hedge, not exceeding 3 feet in height above the grade of the adjacent sidewalk or ground, or retaining wall may be located in the required front yard with no minimum setback.
(3) Notwithstanding paragraph (d) (1) above, A fence or wall not exceeding seven (7) feet in height may be located as close, but no closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure.
(4) Visibility. Not withstanding any other provision of this section, no fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in such a manner as materially to impede vision between a height of three (3) and eight (8) feet above the centerline grades of the intersecting streets.
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SECTION 4. All other items and provisions of Chapter 33 of the Municipal Code are hereby ratified and affirmed.
SECTION 5. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and legal publication thereof.
Clitus R. Edmonds
Councilmember
Read the third time in full and on motion by Edmonds, and duly adopted, placed on its passage. PASSED by the following vote:
AYES: Eight
Bradbury, Edmonds, GiaQuinta, Henry, Long, Lunsey, Ravine, Schmidt, Talarico
NAYS: None
ABSTAINED: None
ABSENT: One
GiaQuinta
DATED: 4-28-92
Sandra E. Kennedy
City Clerk
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-20-92 on the 28th day of April, 1992
ATTEST: (SEAL)
Sandra E. Kennedy Thomas C. Henry
City Clerk Presiding Officer
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of June, 1992, at the hour of 11:45 o'clock A.M.,E.S.T.
Sandra E. Kennedy
City Clerk
Approved and signed by me this 9th day of June, 1992, at the hour of 11:20 o'clock A.M.,E.S.T.
Paul Helmke
Mayor
I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-20-92, passed by the Common Council on the 28th day of April, 1992, and that said Ordinance was duly signed and approved by the Mayor on the 9th day of June, 1992, and now remains on file and on record in my office.
WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 9th day of June, 1992.
SEAL
SANDRA E. KENNEDY, CITY CLERK
6--13-20

GAL NOTICE
tice is hereby given that on the 28th day of April, 92, the Common Council of the City of Fort yne, Indiana, in a Regular Session did pass the owing Bill No. G-92-03-16 (as amended) General dinance No. G-20-92 to-wit:
L NO. G-92-03-16 (AS AMENDED)
GENERAL ORDINANCE NO - G-20-92
ORDINANCE OF THE COMMON COUNCIL OF E CITY OF FORT WAYNE, INDIANA AMENDING APTER 33 OF THE MUNICIPAL CODE OF THE TY OF FORT WAYNE, INDIANA
IT ORDAINED BY THE COMMON COUNCIL OF E CITY OF FORT WAYNE, INDIANA:
CTION 1. Section 33-17 (b) (2) e. is hereby realed.
CTION 2. Section 33-17 (b) (3) is hereby realed.
CTION 3. Section 33-35 is created and amended read as follows:
-35 Fences and Walls
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Form Prescribed by State Board of Accounts

General Form No. 99P (Revised 1987)

FORT WAYNE COMMON COUNCIL
(Governmental Unit)

ALLEN County, Indiana

To: The Journal-Gazette Dr.
P.O. Box 100
Fort Wayne, IN

PUBLISHER'S CLAIM

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Total number of lines in notice _____

COMPUTATION OF CHARGES

184 lines, 1 columns wide equals 184 equivalent lines
at .495 cents per line $ 91.08

Additional charge for notices containing rule or tabular work (50 percent of above amount) _____

Charge for extra proofs of publication ($1.00 for each proof in excess of two) 1.00

TOTAL AMOUNT OF CLAIM $ 92.08

DATA FOR COMPUTING COST

Width of single column 12.5 ems
Number of insertions 2
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Bonnie McNeal

Date: June 20, 19 92 Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned BONNIE McNEAL who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time _____, the dates of publication being as follows:

06/13/92, 06/20/92

Bonnie McNeal

Subscribed and sworn to before me this 20th day of June, 19 92.

Shelley R. LaRue

Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994